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Federal Building
Helena, Montana

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Exhibits are on file in the offices of the Legislative Services Division.

COMMITTEE MEMBERS PRESENT

Rep. William Menahan (Chairman)
Sen. Tom Beck (Vice Chairman)
Sen. Bruce Crippen
Sen. B.F. "Chris" Christiaens
Sen. Mack Cole
Sen. Steve Doherty
Rep. Emily Swanson
Rep. John Mercer
Rep. Karl Ohs
Rep. Billie I. Krenzler
Sen. Debbie Shea
Rep. Paul Sliter

STAFF PRESENT

Robert B. Person, Executive Director
Dave Bohyer, Director, Office of Research & Policy Analysis
Greg Petesch, Director, Legal Services
Todd Everts, Legislative Environmental Analyst
Susan Fox, Researcher

Stephen Maly, Researcher
Ellen Garrity, Secretary

OTHERS PRESENT

Clayton Schenck, Legislative Fiscal Analyst
Sandy Oitzinger, Executive Director of the Montana Juvenile Probation
Officers' Association
Gail Abercrombie, Montana Petroleum Association

COMMITTEE ACTION

- * Endorsed the Department of Military Affairs/Poplar land transfer. (Beck)
- * Adopted the proposed amendments to Legislative Council rules.
(Christiaens)
- * Deleted Section B-3 from the rules. (Mercer)
- * Assigned eminent domain study to EQC. (Cole)
- * Removed HJR 3 from EQC's list of assignments. Assigned SJR 21,
incentives to preserve agricultural land, to Business and Labor. (Mercer)
- * Changed the following committee names:
Education Committee to Education and Local Government Committee;
Business and Labor Committee to Business, Labor, and Agriculture
Committee. (Mercer)
- * Assigned HJR 35 to Finance Committee and directed the Finance
Committee chairman to coordinate with the chairmen of the Children,
Families, Health, and Human Services Committee and the Audit Committee
to develop a study plan. (Beck)
- * Assigned SJR 9 to State Administration, PERS, and Veterans Committee,
and HJR 38 to Education and Local Governments Committee. (Swanson)
- * Assigned SJR 14 to Law, Justice, and Indian Affairs Committee. (Mercer)
- * Assigned HB 339, judicial reapportionment, to Legislative Council and
authorized Chairman to appoint a seven member subcommittee of four
legislators (two majority and two minority) and three members-at-large --
one from the district court system (preferably a district judge), one county
government representative, and one citizen-at-large member. (Sliter)

- * Voted to advise the Land Board that the proposed Department of Military Affairs/City of Billings land transfer does not appear to satisfy the requirements of statute (7-2-302). (Mercer)
- * Approved City of Glendive request for easement for a new water intake and fee waiver under 77-2-35, MCA. (Beck)
- * Approved City of Whitefish request for easement for a new water intake and associated pipeline in Whitefish Lake and a fee waiver under 77-2-351, MCA. (Sliter)
- * Accepted the price recommendation for the codes and session publications. (Christiaens)
- * Approved the operating budget. (Krenzler)

CALL TO ORDER AND ROLL CALL

The meeting was called to order at 9 a.m. by Chairman Menahan. All members were present.

LAND TRANSFER ISSUES

The Department of Military Affairs/City of Billings land transfer

Billings Armory Exchange 77-2-302, MCA -- Exhibit #1

Ralph DeCunzo, Department of Military Affairs, said the Council was previously consulted regarding a transfer of the Billings Armory under the authority established in 77-2-351. However, problems became apparent because of the restrictive nature of the title granted under 77-2-351. This statute requires the state to retain a reversionary interest in the property, prohibits subsequent sale of the property, and requires the property to be used for an identified public purpose. Billings intends to either sell or lease the property and so the property does not qualify for transfer under 77-2-351. The Land Board has granted preliminary approval of this transfer under the terms of 77-2-302, MCA, disposition of former institutions, which allows the Land Board to dispose of former institutions on terms

the Board deem to be in the state's best interest, subject to the Enabling Act and constitutional restrictions. This requires that the state receive fair market value. Fair market value is achieved in this instance as the value of improvements to be received exceed the value of the old armory.

Sen. Crippen said there is a nice subdivision near the armory. There might be a concern about the City's future use of this land.

Chairman Menahan asked Greg Petesch for comment. Mr. Petesch said he is not sure the Armory qualifies as a state institution under 77-2-302, MCA.

The Council postponed action on the Billings/Department of Military Affairs land transfer until later in the day.

Department of Military Affairs/City of Poplar land transfer

Booklet, Transfer of Property to City of Poplar -- Exhibit #2

Mr. DeCunzo said the Department of Military Affairs proposes to transfer, under 77-2-351, .642 acres to the City of Poplar. Poplar wants to use the land for public housing. Military Affairs has obtained preliminary approval from the Land Board under 77-2-351.

Sen. Beck moved to endorse the Department of Military Affairs/Poplar land transfer. The motion passed.

REVIEW COUNCIL RULE AMENDMENTS

Rules of Procedure, amendments proposed for consideration -- Attachment #1.

Mr. Person reviewed all the rule changes and the proposal that the Council always be the committee to hear land transfer proposals.

Sen. Christiaens moved to adopt the proposed rules. The motion passed.

Speaker Mercer moved to delete Section B-3 which states the Legislative Council will not pay out-of-state travel expenses for a lame duck legislator. He said term limits has created many lame duck legislators and there should be some experienced legislators and some new legislators traveling to out-of-state meetings. The motion passed.

CONSIDERATION OF INTERIM STUDY ASSIGNMENTS

Interim Studies and Activities; Interim Study Poll -- Exhibit #3

Memo from Rep. Joan Hurdle in support of HJR 37 -- Exhibit #4

Dave Bohyer reviewed the results of the Interim Study Poll.

Rep. Carol Juneau spoke in support of HJR 12, proposed state Commission on Indian Affairs. She said the tribes support HJR 12 and the study should be assigned to the Law, Justice, and Indian Affairs Committee. The coordinator of Indian Affairs office is now the only official contact between the state and the Indian tribes.

Sandy Oitzinger, Executive Director of the Montana Juvenile Probation Officers' Association, testified in support of HJR 38, juvenile probation officers' salaries. The probation officers would like HJR 38 done to take care of the problem with juvenile probation officers' salaries. She said HJR 38 would not require much time or staff resources.

Sen. Christiaens said although the issue of criminal sentencing is not recommended for study, he hopes the Law and Justice Committee can find additional funds to continue to rewrite some of the codes. Testifying before the Corrections Oversight Committee, judges were adamant about difficulties between Titles 45 and 46. The research has been done for most parts of that study. With additional funding and perhaps contracted services, they may be able to come back with some recommendations.

Mr. Bohyer said if the Council assigns this study to a committee, staff will get the job done. He said any of the studies can go from a limited study to a full-blown multi staff study.

Sen. Doherty said the wide disparity in sentencing needs to be addressed. The attorney general's office may be able to help with a study.

Speaker Mercer said the Children, Families, Health, and Human Services Committee should conduct the mental health study with the assistance of the Finance Committee. He said SJR 9, state contracting laws and procedures, should be dropped and eminent domain should go to Environmental Quality Council (EQC) because it has citizen members, is an experienced committee, and is competent at studying difficult issues. He suggested the sentencing study be moved to Law and

Justice Committee and that SJR 21, incentives to preserve agricultural land, be assigned to the Business, Labor, and Agricultural Committee. He said the Legislative Council should ensure that problems which need to be addressed are studied.

Sen. Beck agreed that the eminent domain study should go to EQC. He asked Todd Everts to comment.

Mr. Everts said eminent domain and MEPA, which are two big studies, would be a full plate for EQC. The main issues currently involved in eminent domain are the Yellowstone pipeline, the Tongue River Railroad, and the Cenex pipeline. All are highly emotional land use issues.

Sen. Doherty opposed assigning the eminent domain study to EQC. He said eminent domain deals with property rights and has nothing to do with environmental issues. The MEPA study alone will probably take all of EQC's time for the next two years.

Sen. Cole said EQC should do the eminent domain study.

Rep. Ohs said eminent domain fits in with EQC because it deals in part with environmental concerns.

Speaker Mercer said the eminent domain issue would be a land use/environmental type study.

Sen. Crippen said the eminent domain study could be assigned to Law, Justice, and Indian Affairs with the assistance of EQC.

At this time, Sen. Fred Thomas spoke to the Council by phone regarding SJR 15, workers' compensation. He said there is a legitimate reason to examine benefits. If benefits are raised, premiums are raised. During the session, the committee hearing work comp bills found that even though some benefits are low, Montana has some of the highest rates in the west. Montana also has a frequency problem with twice as many claims. Sen. Thomas suggested the Business and Labor Committee investigate this frequency problem and the benefit discrepancies.

Sen. Thomas also supports the Transition Advisory Committee (TAC).

Sen. Doherty moved to assign the eminent domain study, HJR 34, to the Law, Justice, and Indian Affairs Committee.

Sen. Cole made a substitute motion to assign the eminent domain study to EQC and direct EQC to work closely with the Law, Justice, and Indian Affairs Committee. The motion passed. Roll call vote: Ayes -- Sen. Beck, Sen. Christiaens, Sen. Cole, Sen. Shea, Rep. Menahan, Rep. Ohs, and Speaker Mercer. Noes -- Sen. Crippen, Sen. Doherty, Rep. Swanson, and Rep. Krenzler.

Speaker Mercer moved to remove HJR 3 from EQC's list of assignments because it was ranked so low and assign SJR 21, incentives to preserve agricultural land, to Business and Labor. The motion passed.

Speaker Mercer moved to change the following committee names:

Education Committee to Education and Local Government Committee and Business and Labor Committee to Business, Labor, and Agricultural Committee. The motion passed.

Speaker Mercer moved to assign HJR 35 to the Children, Families, Health, and Human Services Committee with the assistance of the Finance Committee.

Sen. Christiaens said the legislation is clear that the Finance Committee is to be the lead committee. Sen. Beck agreed.

Clayton Schenck said Sen. Swysgood, chairman of the Finance Committee advised him it was the intent of the Finance and Claims Committee to have members of both the Finance Committee and the Children, Families, Health, and Human Services Committee on this study. The two chairmen need to meet and work out a study plan. Sen. Swysgood said the HJR 35 subcommittee should be under the Finance Committee working closely with the other committee.

Sen. Beck made a substitute motion to assign HJR 35 to the Finance Committee and direct the Finance Committee chairman to coordinate with the chairmen of the Children, Families, Health, and Human Services Committee and the Audit Committee to develop a study plan. The motion passed.

Speaker Mercer moved to delete SJR 9, state contracting laws and procedures because it ranked last.

Sen. Cole said the state contracting laws and procedures need examining. SJR 9 came out of the State Management Systems interim committee last session because the state does a lot of contracting of services.

Rep. Swanson agreed.

Sen. Beck warned against giving interim committees too many studies.

Rep. Swanson made a substitute motion to assign SJR 9 to State Administration, PERS, and Veterans Committee, and assign HJR 38 to Education and Local Governments Committee. The motion passed.

Speaker Mercer moved that SJR 14 be assigned to the Law, Justice, and Indian Affairs Committee. The motion passed.

Speaker Mercer reviewed the study assignments:

Legislative Council
HJR 18

Education and Local Government
HJR 29
SJR 16
HJR 38

Children, Families, Health, and Human Services
none

State Administration
HB 79
SJR 9

Business, Labor, and Agriculture
HB 515

SJR 15
SJR 21

Law, Justice, and Indian Affairs

HJR 37
HJR 12
SJR 14

Revenue and Taxation

TAC

EQC

HB 458
SJR 18
HJR 34

Rep. Sliter moved to assign HB 339, judicial reapportionment, to the Legislative Council and authorize the Chairman to appoint a seven member subcommittee of four legislators (two majority and two minority) and three members-at-large -- one from the district court system (preferably a district judge), one county government representative, and one citizen-at-large member and direct the Legislative Council to ask Chief Justice Turnage for assistance in staffing this subcommittee.

Rep. Sliter said SB 273 added a new judicial district. It separated Stillwater, Big Horn, and Carbon Counties from the Yellowstone County Judicial District and gave them their own judge. SB 273 also added a judge to both Flathead and Lake Counties. That bill does not solve all Montana's district court problems. Some single county districts with more than one judge have less than 200 cases per year. That problem needs to be addressed.

Rep. Sliter's motion passed.

SPECIAL SESSION PLANNING

Mr. Person said the Governor may call a special session in June to deal with the water rights compact and coal tax settlement issues. Tentative arrangements have been made with Carroll College to provide sufficient space for a one-day special session.

Dave Lewis, Director of the Budget Office, said the Governor may have a couple other small issues to bring before a special session. The speed limit bill needs a clarification in the fine.

Mr. Petesch said the Governor's amendments to SB 361 had a coordination provision in the contingent voidance provision that unless \$66,050 was appropriated for the EIS the act would be void. The HB 2 amendment only appropriated \$66,000. In the absence of the remaining \$50, the condition wasn't met. Mr. Petesch said he can't codify that bill. This is one issue that may be added to the special session call.

Mr. Petesch said the speed limit fine issue is whether the surcharge on criminal convictions applies to violations for the first ten miles an hour over the speed limit, which are not placed in the driver's record. Those are still considered criminal fines. The justices of the peace in the state are confused about the surcharge.

The regional primary may also be included in the special session call.

Mr. Petesch said legislators need to be aware that there are no hearing rooms available at Carroll College.

Speaker Mercer said leadership should make it clear to the Governor that it is going to be a one-day session.

Sen. Doherty agreed and said anything beyond a one-day session will not work.

Proposed Special Session rules -- Exhibit #5

Mr. Person reviewed the proposed special session rules.

Sen. Doherty referred to rule #4, no amendments on second reading. If the session is expanded, the legislature will have to be able to amend on second reading.

Sen. Crippen said rules are not a function of this committee.

Mr. Person said the rules are just for the Council's information. It is also important to get a sense of where leadership wants to go with this. If a bill can be amended on second reading, the logistics of engrossing, enrolling, and printing expand. How much space at Carroll College would that require? These decisions can't be made the day before the special session.

Speaker Mercer said the Legislative Services Division must be prepared to provide amendments.

LAND TRANSFER ISSUES

The Department of Military Affairs/City of Billings land transfer

Clive Rooney, Department of Natural Resources and Conservation (DNRC), discussed whether the Armory qualifies as a state institution under 77-2-302, MCA. The transfer process began under 77-2-351, MCA, which allows for a transfer to municipal as well as other entities. Billings' intention is to sell or lease this property, which would not work under 77-2-351.

Mr. Rooney said no specific exchange statutes fit this case. The disposition of former institutions statute seems to fit (77-2-302). Former institution is not defined. DNRC believes a state agency which has used a building and no longer has use for it qualifies as a state institution. Therefore, the Department of Military Affairs/City of Billings land transfer would be valid under 77-2-302..

Following Council discussion, Sen. Beck moved to approve the action proposed but state that the Legislative Council has many concerns about the land transfer.

Speaker Mercer made a substitute motion to advise the Land Board that the proposed Department of Military Affairs/City of Billings land transfer does not appear to satisfy the statute (7-2-302). The motion passed.

City of Glendive, Yellowstone River -- Exhibit #6

City of Whitefish, Whitefish Lake -- Exhibit #7

City of Glendive request for easement for a new water intake and fee waiver under 77-2-35, MCA

Sen. Beck moved to approve this request. The motion passed.

City of Whitefish request for easement for a new water intake and associated pipeline in Whitefish Lake requesting fee waiver under 77-2-351, MCA

Rep. Sliter moved to approve this request. The motion passed.

SET PUBLICATION PRICES

1999 Montana Code Annotated (MCA) and Legislative Session Publications Pricing Recommendations -- Attachment #2

Mr. Petesch reviewed the attached price recommendations.

Sen. Christiaens moved to adopt the proposed prices for the codes and session publications. The motion passed.

LAWS

LAWS Survey -- Exhibit #8

Hank Trenk reported on the successful implementation of LAWS. Systems used every day in the legislative process, i.e., bill drafting, bill introduction, bill engrossing, bill enrolling, amendments, committee minutes, journals, and bill status were rewritten to put LAWS together. The work was completed in one interim. LAWS is good public relations for the legislative branch. Six hundred people signed up for the preference list which provides the ability to input a list of bills and with one click receive the status of all those bills. The LAWS site received 6,000 to 8,000 hits a day.

Mr. Hank said the public asked for individual votes, which are not available. Staff will try to put votes on the system.

TRAVEL FUNDS

Sen. Christiaens said Sen. Crippen appointed him to the Council on State Governments Subcommittee on Corrections which will meet in Quebec in December. He wants to attend the meeting but needs help with expenses.

Chairman Menahan asked Mr. Person if funds are available. Mr. Person said there is leadership money.

No action was taken.

REVIEW FOR APPROVAL OF OPERATING BUDGET CHANGES FOR FY 99 AND PRELIMINARY OPERATING BUDGETS FOR FISCAL YEARS 2000-2001

Legislative Services Division Program Budget Development, Program 20 -- Exhibit #9

Program 21 budget - Exhibit #10

Mr. Person distributed the budget and Rep. Krenzler moved to approve it. The motion passed.

CAPITOL RENOVATION -- CURRENT STATUS

Mr. Person reviewed the status of renovation and temporary locations of Capitol based offices.

Sen. Crippen said he will monitor the renovation.

SETTING SALARY OF EXECUTIVE DIRECTOR

Mr. Person said the current pay plan does not provide guidance to the Council on how to fulfill this responsibility. He recommended assigning this task to the Personnel Subcommittee.

OTHER BUSINESS

Yellow Bay Meeting

The Council will meet August 26 and 27 at Yellow Bay on Flathead Lake.

Personnel Subcommittee

Sen. Christiaens asked Mr. Person to give the Personnel Subcommittee a report on the comp time issue.

Judicial Redistricting

Rep. Swanson asked how the Judicial Redistricting study will fit into the budget.

Mr. Person said staff will examine all the assignments, allocate funding, and report back to the Council. He is confident there are enough funds to add the Judicial Redistricting study.

Interim Study Poll

Rep. Sliter recommended that the next interim study poll name the committee and all studies that could be assigned to that committee then ask legislators to rank those studies for each committee. The Law, Justice, and Indian Affairs Committee had so many studies that staff chose not to assign the Judicial Redistricting study which was ranked 10th out of 24 in total votes.

Speaker Mercer agreed with Rep. Sliter and said such a poll would also point out that some committees (i.e., Children and Families) have no studies.

Legislators' Questionnaire

Legislators' Questionnaire, 1999 - Exhibit #11

Mr. Person distributed the questionnaire for the 1999 Legislative Session.

ADJOURN

The meeting adjourned at 2:30 p.m.

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